IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23635 of 2004

Between:

K.S. Murthy
CISF Unit, SHAR ISRO., Srihari kota, Nellore District

..... PETITIONER

AND

1 The District General, CISF Head Quarters. 13, CGO's Complex, Lodhi Road, New Delhi
2 the Deputy Inspector General, CISF (DOS) Head Quarters, Bangalore
3 The Commandant, CISF Unit, SHAR Centre, Srihari Kota, Nellore District
4 The Deputy Commandant, CISF Unit, IOC., Haldia, West Bengal

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or a direction, more particularly one in the nature of Writ of Mandmaus. declaring the action of the Respondents in not promoting the petitioner as Head Constable and Asst. Sub-Inspector on par with his juniors, though has is fully qualified and eligible, as being arbitrary, illegal and unreasonable and issue a consequential direction, directing the respondents to promote the petitioner on par with his juniors with all consequential benefits of seniority increments etc.,

Counsel for the Petitioner: MR.D.L.PANDU

Counsel for the Respondents: Mr.Aktar Ahmed Jabi

The Court made the following :

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ORAL ORDER:

The petitioner has filed this writ petition seeking a Mandamus to declare the action of the respondents in not promoting him as Head Constable and thereafter as Assistant Sub-Inspector on par with his junior, though he is fully qualified, as arbitrary and illegal.

The learned counsel for the petitioner has contended that the case of the petitioner for promotion as Head Constable was not considered since the departmental enquiry was pending at that time. Now the departmental enquiry has been culminated, he is exonerated from the charges levelled against him. Hence, he prays to consider the case of the petitioner on par with his juniors.

The learned standing counsel for Central Government has contended that the case of the petitioner was not considered inasmuch as a departmental enquiry was pending by the time of giving promotions.

At the time of giving promotions, the petitioner's promotion as Head Constable was denied since departmental enquiry was pending. In view of the departmental enquiry, which was pending, the respondents rightly did not give any promotion to the petitioner. Now, the departmental enquiry ended in a discharge and the petitioner was exonerate from the charges framed against him, there is no bar for considering his case for promotion as Head Constable and thereafter as Assistant Sub-Inspector of Police on par with his juniors. If the

petitioner is otherwise found eligible for promotion, the same shall have to be considered by the respondents on par with his junior.

Having regard to the facts and circumstances of the case, I deem it appropriate to direct the respondents to consider the case of the petitioner for promotion on par with his juniors as Head Constable and thereafter as Sub-Inspector of Police on an application to be filed by the petitioner, within a period of four weeks from the date of receipt of such application from the petitioner.

The writ petition is disposed of in terms of the above direction. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

20th December, 2004.

To

1 The District General, CISF Head Quarters. 13, CGO's Complex, Lodhi Road, New Delhi
2 the Deputy Inspector General, CISF (DOS) Head Quarters, Bangalore
3 The Commandant, CISF Unit, SHAR Centre, Srihari Kota, Nellore District
4 The Deputy Commandatn, CISF Unit, IOC., Haldia, West Bengal

Note: Furnish copy in three days

(B/o)

bcj